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State for EAP/CM - JYamamoto and EB/IPE - EFelsing
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USTR for China Office - AWinter; IPR Office - RBae;
and OCG - SMcCoy
Commerce for National Coordinator for IPR Enforcement
Commerce for CISrael
Commerce for MAC 3204/LRigoli, ESzymanski
Commerce for MAC 3043/McQueen
Commerce for MAC 3042/SWilson, JYoung
Commerce for NWinetke
LOC/Copyright Office - MPoor
USPTO for Int'l Affairs - LBoland, EWu
DOJ for CCIPS - MDubose
DOJ for SChembtob
FTC for Blumenthal
FBI for LBryant
DHS/ICE for IPR Center - Dfaulconer, TRandazzo
DHS/CBP for IPR Rights Branch - GMacray, PPizzeck
ITC for LLevine, LSchlitt

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TAGS: ETRD KIPR ECON WTRO PGOV CH

SUBJECT: CHINA/IPR: AMBASSADOR'S SIXTH IPR ROUNDTABLE

Summary

¶1. (SBU) On October 23-24, the China Mission held Ambassador Clark T. Randt, Jr.'s Sixth Annual Roundtable Discussion on Intellectual Property Rights (IPR) in China, with the theme "IPR Protection on the Ground - What the United States Embassy is Doing to Support Rights Holders in China, and What Can we be Doing Better?" The event focused on how, in the context of a chilly post-WTO case filing environment for bilateral engagement on IPR, the United States Mission to China and DC-based agencies can provide practical support for intellectual property rights protection and enforcement efforts and can more closely align priorities with industry. The theme was selected in order to address practically the challenges posed by China's complex IPR environment, to line up increased United States Government resources with industry needs, and to find new ways to engage China at a time when many avenues for formal dialogue are blocked. Keynote speakers included Ambassador Randt, Commerce Undersecretary Jon Dudas, and Commerce General Counsel John Sullivan. Attendees included more than 250 lawyers, trade association

representatives, company representatives, academics, and United States Government officials. Each panel offered specific recommendations, focused primarily on China's legislative reforms, capacity building in the judiciary, and increasing enforcement resources. End Summary.

China-based Industry Actively Engaged on IPR

¶3. (SBU) In the first panel, "China-Based Industry Overview And Directions The Embassy Should Take on Intellectual Property Rights," major industry associations provided overviews of their initiatives in China and recommended to Embassy officials how to engage with the Chinese government on intellectual property rights issues. First, Senior Director of the Greater China United States Chamber of Commerce, Jeremie Waterman, summarized current Chamber efforts to cultivate national and local level IPR interlocutors in China to support members' industrial policy concerns. He highlighted recent submissions on patent and trademark law revisions, and cooperation agreements with provincial governments in Jiangsu and Guangdong, adding that IPR-related WTO cases filed in April appeared to have little impact on these activities.

¶4. (SBU) Next, Caterpillar (China) Investment Company Chairman Richard Lavin spoke on behalf of the American Chamber of Commerce. He outlined AmCham's business outreach and government advocacy efforts on IPR issues,

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including nearly a dozen events in 2007. Among them were a successful Embassy/AmCham series of practical "how to" programs, an annual white paper, and the Chaoyang Initiative, initiated with Embassy support, aimed at establishing a model anti-copyright, infringement- and piracy-free zone in Beijing's eastern Chaoyang District. Finally, Senior IPR Counsel for General Electric Company Asia and Chairman of the Quality Brands Protection Committee, Jack Chang, described efforts to disrupt criminal networks as important "firefighting" work, but said that there should be greater focus on more fundamental "fire prevention:" raising public awareness and improving infrastructure and internal business processes in China.

Recommendations from China-Based Industry

¶5. (SBU) Waterman articulated several recommendations for the Embassy: appoint a Minister Counselor-level representative for IPR efforts; increase coordination of government and industry input on legislative reforms; increase involvement in coordination of judicial and other training projects; expand outreach efforts to Washington, DC officials, including Congress; increase cultivation of up-and-coming Chinese officials and academics; increase support for small- and medium-sized enterprises; engage Chinese IPR owners; collect and disseminate statistics on IPR protection, enforcement, and licensing; strategically use consulates in creative IPR programming; and provide support for licensing and enforcement on the Internet. Waterman also raised recommendations for the broader United States Government, including increased public-private partnerships; a more robust and direct private sector role in the Joint Commission on Commerce and Trade (JCCT) IPR Working Group; long-term budgeting for sustained, multi-year engagement on IPR issues; increased coordination of technical assistance (particularly with police and customs); stronger incentives for interagency cooperation within

the United States Government; mobilization of international organizations such as the World Intellectual Property Organization (WIPO) and World Customs Organization (WCO) for training assistance and funding; an increased role for law enforcement in coordinating with rights holders; and an increased level of dialogue with like-minded partners, including the EU and Japan.

¶6. (SBU) Chang said the Embassy should encourage China to set up cross-functional research offices that involve public and private stakeholders; provide data on the implementation of the "Shanghai Initiative" to authorize initiation of criminal investigations based on a probable cause standard rather evidence of actual

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criminal activity; share seizure information of exporting ports and free trade zones; prosecute importers and distributors of IPR infringing goods; and share best practices with China. He also urged the United States to list counterfeit and pirated goods as prohibited items on United States Customs entry and exit forms, and to encourage China to do the same. Chang also requested Embassy support for Article 80 of the draft trademark law, requiring OEMs for branded goods to verify trademark ownership, and holding them liable for infringement. He also encouraged China to translate critical information on its trade websites into English, and to set up a mechanism to measure progress on IPR issues. He concluded by saying that the United States should give China credit for improvements it has achieved, but to remain focused on problem areas.

Pharmaceutical Industry Concerned about Bulk Chemicals

¶7. (SBU) To conclude the first session, Research and Development-based Pharmaceutical Association Committee (RDPAC) Managing Director, Jeffrey Schultz, and GlaxoSmithKline representative Dr. Bill Tyrrell discussed issues of concern to the pharmaceutical industry, including data exclusivity, patent linkage, and the counterfeiting and sale of bulk active pharmaceutical ingredients (API). Chinese regulations, Schultz said, protect undisclosed data against "unfair commercial use" for six years; however, regulatory loopholes in the drug registration process make data indirectly accessible to domestic generic companies. On counterfeiting and sale of API, he said RDPAC has partnered with MOFCOM and MORO to form a multi-ministerial task force to enhance regulatory control and enforcement of the problem. Tyrrell noted that a patent linkage system and the ability to get preliminary injunctions are imperative to protecting the company's investments against competing generic producers. (Note: Tyrell's comments were made in the aftermath of a significant recent loss at the courts for a Japanese pharmaceutical company involving patent linkage. End Note.)

Recommendations from Pharmaceutical Industry

¶8. (SBU) Schultz encouraged the Embassy to ensure that data exclusivity and patent linkage remain on the agenda for discussion with the Chinese; to develop multiple constructive channels for dialogue not limited to the IPR elements of the JCCT and SED, including the pharmaceuticals working group under the JCCT; and to position IPR in such a way that the United States appears "more engaged and less critical." He added that the United States Food and

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Drug Administration should increase cooperation with China's State Food and Drug Administration, and that China should be trained and encouraged to use the Orange Book system as a model for the development of a self-regulated patent linkage system. Schultz added that the patent law should be changed to empower courts to hear infringement cases even before drugs are on sale ("patent linkage") and to enable innovators to challenge drug applicants engaged in registering infringing products with the SFDA at an early stage.

High Piracy Rates in IT and Copyright Industries

¶9. (SBU) In the second part of the first panel, United States Information Technology Office (USITO) Managing Director Greg Shea and International Intellectual Property Alliance (IIPA) President Eric Smith led panel discussions and offered their suggestions on how the Embassy might improve engagement on IPR issues in China. Panelists raised concerns including the poor quality of Chinese patents and inadequate patent examination mechanisms; increasing Internet piracy; lack of reliable statistics on administrative compliance; and the lack of adequate criminal enforcement. Copyright industry representatives said there has been little improvement in combating piracy, with the exception of business software. They credited the lack of an effective enforcement model with piracy rates that he said continue to hover between 80 and 90 percent.

Recommendations from IT and Copyright Industries

¶10. (SBU) Information technology and copyright industry panelists agreed unanimously that effective enforcement and increased awareness are both critical to improving China's IPR environment. They said the Embassy should continue to engage the Chinese government at all levels to raise awareness, improve IPR protection education, and remind visiting United States Government officials from additional agencies, such as the Department of Labor, Department of Education, and Congress to raise IPR issues with their Chinese counterparts on such matters as non-competition and trade secret protection, textbook piracy, and legislative reform, respectively. Panelists also encouraged the China Mission to engage provincial governments on IPR. Specific suggestions included maintaining an expert on criminal enforcement at the Embassy; raising the Embassy IPR Attaché position to the rank of Minister Counselor; funding programs to motivate Chinese authorities to track cases and outcomes; creating specialized Internet task forces within local governments; and engaging

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academics and university students on the need for increased IPR protection.

Enforcement Remains Greatest Weakness

¶11. (SBU) The second panel, "Trends In Intellectual Property Enforcement and Suggestions for United States Government Support or Involvement" included reviews by copyright, pharmaceutical, and agriculture industry representatives of specific infringement cases, and also provided suggestions for increased Embassy engagement. Participants were unanimous in their view that, ultimately, enforcement remains the most important barrier to an improved IPR environment in

China, as evidenced by rules and regulations that are frequently issued without any effect. Motion Picture Association (MPA) Senior Vice President Mike Ellis and International Federation of Phonographic Industries (IFPI) Regional Counsel Benjamin Ng both detailed the increasing threat their industries face from the Internet, especially peer-to-peer (P2P) networks and Internet cafes, which they described as hubs of IPR infringement in China. They identified as a central problem a lack of sufficient resources to monitor the huge and growing number of infringing websites.

Industry Recommends Increased Manpower, Litigation

¶12. (SBU) Ellis suggested the Embassy continue to encourage the National Copyright Administration of China (NCAC) and the Public Security Bureau (PSB) to increase their manpower, and to create professional exchanges to develop the technical capacity of Chinese law enforcement officers and judges. Ng recommended that NCAC guidelines for cease and desist notices for Internet infringements be streamlined, and that notices should be followed by civil litigation. He added that Embassy financial assistance and training would both be effective tools.

Eli Lilly Sees Progress, but Challenges Remain

¶13. (SBU) Eli Lilly and Company Patent Counsel Soonhee Jang agreed that, despite progress in promulgation of rules and regulations and increased transparency, gaps remain in enforcement statutes and procedures, and due process and judicial independence are important impediments to IPR protection. She noted that China ranked fourth globally in the total number of patent litigation from 1997 to 2006, and that only 10 to 20 percent of those cases involved foreign companies.

Technical Assistance Recommended for Judiciary

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¶14. (SBU) Jang recommended that the Embassy support public outreach on IPR, and specifically supported the Embassy's ongoing outreach to the media to improve public relations for United States rights holders on IPR as well as public diplomacy in this area. She also encouraged programs to address China's systemic impediments to IPR enforcement, including a lack of experience and capability in judges; preliminary injunctions in patent infringement cases; the lack of a national specialized appellate IPR court; lack of an evidence code; corruption and local protectionism; legislative issues affecting civil procedures; and local protectionism. Jang specifically identified a case where a preliminary injunction had been granted to a United States company, but thereafter the court made a finding of no infringement, and Jang said that compensation is now being sought against the United States company on the basis of a vaguely worded statute. She said such cases, if lost, may suggest a slackening in China's efforts to protect IPR.

Concern over Shipments of Harmful Fertilizers

¶15. (SBU) Representing Crop Life China, DuPont's Elizabeth Lam addressed the concerns of the agricultural industry, and said that products sold may differ from their labeling, and generic brands may be mislabeled and falsely sold as name-brand products. In addition, Lam mentioned that confiscated agricultural products are often channeled back to

dealers for resale; there is a high rate of repeat offenders; a general lack of respect and coordination among Chinese government agencies; promotion of patent infringing products; and an increase in the number of hidden and mobile counterfeit producers. Crop Life's D'Arcy Quinn discussed a case involving several tons of bulk counterfeit product that was delivered to the Ukraine from China and suggested that a possible solution to this problem involved regulations regarding international shipments of hazardous goods that would require the goods be returned to their sender.

¶16. (SBU) As a solution, Lam suggested that the Embassy engage more frequently with relevant Chinese government ministries; emphasize personal safety; increase education efforts; participate in joint training of customs agents; and enhance penalties for piracy and counterfeiting. (Note: Crop Life has separately distributed a position paper on its issues in Washington, DC and in China. End Note).

Case Studies: IPR Protection Successes in China

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¶17. (SBU) The Roundtable's third panel, "Illustrative Cases - Ways to Protect and Enforce IPR in China," featured case studies presented by Nike, the EU Mission to China, Anheuser-Busch, and the Business Software Alliance. Each described how local conditions have impacted their ability to protect IPR. For example, panelists cited the inability of landlords of Chinese markets to enforce lease agreement provisions that assess penalties for tenants who violate IPR laws on the landlords' premises. In addition, they described loopholes in commercial regulations that prevent authorities from revoking business licenses of IPR infringers and prevent authorities from shutting down websites that deal in counterfeit and infringing products.

Recommendations for More IPR Enforcement Success

¶18. (SBU) Common recommendations from panelists included continued engagement on basic legal reform in China so that commercial laws and regulations are enacted with fewer loopholes and are more consistently enforced across the country. For example, they suggested that the United States continue to press China for a law or regulation that provides a standard for law enforcement or court authorities to assess the value of counterfeit and infringing products. This type of system, they explained, is critical to prosecuting IPR infringement cases uniformly across legal jurisdictions. Panelists also recommended increased Embassy coordination with China's law enforcement and customs authorities to help encourage more consistent enforcement of IPR standards, including affirming positive steps the Chinese government takes. They noted that sharing more detailed United States Customs information on seizures would help companies and origin countries like China better target infringing shipments before they arrive at United States borders.

Legislative Reform and the Future of IPR in China

¶19. (SBU) Department of Commerce General Counsel John Sullivan began the fourth panel, "IPR Directions for the Future - Legislation and National IPR Strategies and United States Government Support," with remarks highlighting the connection between the rule of law

and a strong IPR protection and enforcement regime. The theme was elaborated within the panel discussion, which included representatives from Rohm and Haas, the International Trademark Association, GE/NBC Universal, the International Anti-Counterfeiting Coalition, the American Seed Trade Association, and Acushnet. Panelists provided insight into the status of China's current legislative reforms in the area of patent,

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trademark, copyright, plant variety protection, criminal law, and civil law reform.

¶20. (SBU) In introducing the panel, Mission Senior IPR Attaché noted that, among the various areas of IPR law currently under revision, China's patent law is the most ripe -- it is currently under examination at the State Council for Legislative Affairs Office (SC/LAO), and a new draft is expected to be passed to the Standing Committee of the People's Congress and issued in early 2008. With regard to trademark law reform, China's Trademark Office has reviewed a second draft, which has been submitted to the State Administration for Industry and Commerce (SAIC). The public comment period ended on October 31, 2007, after which it will be submitted to the SC/LAO around the end of 2007. Following review by the SC/LAO, the trademark law is likely to be submitted to the Standing Committee of the People's Congress by the end of 2008. Finally, China's copyright law is also under review, and a group of academic experts will prioritize issues and conduct a preliminary study of needed reforms; however, no draft has yet been released.

¶21. (SBU) Panelists raised several concerns on patent issues, including: procedures for infringement and invalidation; patent quality for design patents; first filing and foreign filing license requirements; service inventions and remuneration; the scope of patentability -- software, "bolar" exemptions, and patent linkage; biodiversity and genetic resource disclosures; and compulsory licensing. On trademark issues, concerns included: cancellation of relative ground examination; conflict between trademark system and conflicts with China's sui generic geographic indication (GI) regulations; protection of well-known mark and famous mark; compulsory destruction of infringing/counterfeit goods; definitive removal of infringing/counterfeit goods; and continuing pending problems.

¶22. (SBU) On the topic of plant variety protection, a panelist representing the American Seed Trade Association said there is currently discussion within the Chinese legislative structure on the need for patent protection for plant varieties. While there are no immediate indications that such legislation will be introduced, there have been some informal indications that China may consider accession to International Union for the Protection of New Varieties of Plants '91 (UPOV). Paul Schmidt, appearing on behalf of the International Anticounteiting Coalition, and Jason Yao representing QBPC discussed criminal law reform and civil procedure law reform. With regard to the former, they said there were recently open discussions on the amendment of Articles 217 & 218 (relating to

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copyright); however, discussions of a formal amendment have not materialized. Further, while the civil procedure law has been revised, panelists reported that the People's Congress recently rejected a second revision of the legislation, calling for an expanded

scope of existing provisions. The third draft has not yet been released.

How to Engage on Legislative Reform in China

¶23. (SBU) Panelists welcomed United States Government efforts to date to provide official comments on Chinese legislation under reform. Many encouraged more direct dialogue between China's National People's Congress and the Hill. They also offered suggestions for Embassy officials to continue supporting their IPR concerns in China, including: support for legislative reform and efforts to strengthen the rule of law in China; further engagement with relevant Chinese government entities to provide input and support on legislative reforms. ASTA specifically recommended more robust inclusion of life sciences technology issues in discussions on innovation in the Strategic Economic Dialogue. QBPC advocated addressing civil procedure law reform more aggressively in the near future and supported a proposed visit of the Court of Appeals for the Federal Circuit to China, as well as other initiatives for greater judge-to-judge interaction on procedural issues. They also said more focused engagement with academics would be useful for certain earlier stage legislative issues, such as copyright law reform. Other suggestions included: encouraging engagement with other countries that have sound IPR regimes; coordination with EU IPR programs; cooperation with local industries; interfacing with media; and engaging WIPO.

Innovation, Antitrust, and Market Access in China

¶24. (SBU) The fifth panel, "China's Industrial and Intellectual Property Policy: How This Affects United States Companies and How the Embassy Should Respond," included panelists from law firms Covington & Burling and O'Melveney & Meyers, Motorola, the International Intellectual Property Alliance (IIPA), the Motion Picture Association (MPA), and the International Federation of Phonographic Industries (IFPI). First, in a discussion of self-reliant innovation and IPR protection in China, Martin Hansen of Covington & Burling said that there has been some progress in the area of innovation, including China's recognition of the linkage between R&D and innovation; recognition (to some degree) of the linkage between IPR and innovation; and recognition of the need to provide

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incentives to invest in R&D. However, he said that challenges remain because China generally fails to fully appreciate the importance of market-based incentives.

¶25. (SBU) Next, Nathan Bush of O'Melveney & Meyers discussed the relationship between IPR and antitrust, focusing on the recently promulgated anti-monopoly law, expected to take effect August 1, 2008. Bush said the legislation allows room for either convergence or collision with international best practices, and that successful convergence will depend on the resources, competence, motives, and clout of enforcement agencies. While the anti-monopoly law does not fully address IPR, Bush said the Chinese government has announced plans to issue IPR guidelines for enforcement officials, which should be a focus of USG efforts. Motorola representative Kirk Dailey then addressed China's technology transfer policy, and spoke extensively on patent licensing. He said that Motorola has been licensing GSM and CDMA IPR since the early 1990s, but that progress has been slow in licensing discussions

with several Chinese government entities and companies. He said many licensing activities are only undertaken following litigation.

¶126. (SBU) Finally, MPA and IFPI discussed market access issues in China, particularly China's problematic protracted content review process, which they said prevents the development of a strong, legitimate market. For example, they noted that the review process of a single video game title can take up to 18 months, during which time pirated software copies and domestic competitors gain market share. Copyright industry speakers also raised problems relevant to print publishing, where restrictions currently exist on publishing, printing, importing, and distributing books and journals into China. They said such restrictions increase costs (and prices) and keep foreign publishers from serving customers efficiently.

How to Address Chinese Industrial Policy

¶127. (SBU) Hansen suggested the United States assist Chinese authorities to recognize that market-based approaches to innovation are in China's own self-interest, and that the Embassy should urge consistent support for key innovation principles, such as non-discrimination, standards, and transparency. Motorola requested better Embassy advocacy in IPR negotiations over issues such as licensing, as well as assistance in facilitating industry discussions with the Chinese government on improved IPR remedies such as enforceable injunctions and extended statute of limitations periods. (Note: The China Mission

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responded that it was already extensively engaged on issues involving statutes of limitations, estoppel, and laches, and that an official in the Foreign Commercial Service supported intellectual property licensing from the United States. End Note.) The copyright industries recommended that the Embassy engage China's General Administration of Press and Publication (GAPP) and Ministry of Culture (MOC) to unify, simplify, and speed up the censorship approval process. They also requested support for direct engagement with Chinese universities and the Ministry of Education regarding textbook procurement.

View from Washington: IPR Challenges in China

¶128. (SBU) In the final panel of the Roundtable, "The View from Washington: IPR Policy and the Role of Rights Holders in Dealing with Challenges in China," United States Government representatives working on IPR issues shared their views of the current environment in China. Deputy Assistant United States Trade Representative Audrey Winter gave an update on the status of the two WTO cases filed against China in April, emphasizing that the United States Government does not believe the WTO dispute process precludes continuing cooperation with China on IPR protection. Susan Tong from the United States Patent and Trademark Office (USPTO) briefed the audience on USPTO's current China initiatives, including examiner exchanges, a work sharing pilot, and an exchange of automation experts with the State Intellectual Property Office (SIPO) include. She said that, following successes with SIPO, USPTO has more recently begun similar initiatives with China's Trademark Office.

¶129. (SBU) Panelists held a uniformly positive view of cooperation trends in law enforcement, both between the United States and Chinese agencies and within the

United States law enforcement community. For instance, Department of Justice IPR Task Force Executive Director Mark Grider highlighted the success of Operation Summer Solstice, which resulted in the arrest of 25 suspects, closure of six manufacturing and distribution facilities, and seizure of USD 7 million in assets. He also noted a Department of Justice-sponsored conference in Bangkok aimed at forming an IPR enforcement network with other law enforcement agencies in the Asia-Pacific region. Raul Roldan, the Federal Bureau of Investigation's (FBI) Chief of Cyber Crime Investigation, explained how the Fusion Center, a non-profit subject matter expert research center with members from over 400 companies, provides a mechanism for United States authorities and the business sector to share information at a level normally impossible when dealing directly with private companies. He added that aggressive multi-lateral

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cooperation throughout the region is the key to IPR enforcement success.

¶30. (SBU) Tom Hipelius from the Department of Homeland Security (DHS) Immigration and Customs Enforcement IPR Coordination Center noted substantial improvement in cooperation with Chinese law enforcement agencies. He pointed out that, whereas written requests for meetings with Chinese counterparts went unanswered in 2001, by 2004 the two governments were carrying out joint undercover operations. He noted particular successes in the case of Vincent Ku, who was selling counterfeit Microsoft products, as well as a pharmaceutical case codenamed Ocean Crossing. DHS Customs and Border Patrol's (CBP) Steve Thomas reported 14,675 IPR seizures in 2006, noting that 81 percent of IPR border seizures were from shipments originating in China. He underscored CBP's positive working relationship with the General Administration of Customs of China (GACC) and other Chinese agencies. Thomas added that CBP and GACC had signed an IPR memorandum of understanding that became effective in June, allowing for more information sharing on IPR seizures.

Initial Feedback from Attendees

¶31. (SBU) Direct and indirect feedback via surveys, blogs, and web postings give a fairly comprehensive account of the success of this year's Roundtable and ongoing challenges in protecting IPR. Attendees generally ranked the roundtable as "highly valuable" to them, noting in particular the utility of a forum to educate the United States Mission on how to better support industry. Attendees also offered that recommending practical steps to support rights holders was a challenging, useful exercise that prompted follow-up in their own organizations. One association has reportedly already suggested to the Ministry of Public Security how to coordinate more closely on criminal copyright enforcement cases -- in effect, a first practical consequence of the IPR Roundtable.

¶34. (SBU) The Mission's initial analysis shows a consistent message from industry: there continues to be a compelling need for increased interagency cooperation and coordination in IPR issues, including cooperation with legislative and judicial branches. Also, many industry participants openly criticized the United States Government's WTO case, suggesting that it undercuts their efforts to improve enforcement by working with IPR officials. One trade association representative said they saw "little purpose" in visiting Beijing because of the WTO case, while others explained that their China budgets had been cut, thus

precluding their attendance. This new dynamic on IPR

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engagement in China places additional stress on existing China Mission resources as we seek new ways to support industry. It also suggests that DC agencies should similarly begin to seek creative new avenues of engagement on IPR in China, such as working more closely with Capitol Hill, the courts, and international organizations, as appropriate.

Planned Follow-Up Actions

¶35. (SBU) In coordination with the Office of the Coordinator for International IPR Enforcement, Embassy is preparing a separate white paper detailing the status of IPR enforcement in China and industry recommendations presented to the Ambassador at the Roundtable. This document could be a useful tool to coordinate the Mission's approach to prioritizing and acting on these recommendations with Washington agencies. Additionally, the document could be useful for reporting to Capitol Hill.

¶35. (SBU) Many industry participants declined to make their presentations available for wider dissemination. Those approved for publication are available online at <http://www.signup4.net/public/ap.aspx?EID=AMB A16E&OID=147>.

Comment

¶36. (SBU) There was no Chinese Government participation at this year's Ambassador's IPR Roundtable, likely a further impact of April's WTO filings. The resulting atmosphere may have been more conducive for panelists to provide candid, constructive recommendations to the China Mission. Speakers also appeared to value the opportunity to directly address the Ambassador, who attended the entire day's events. Despite the usual raft of problems, however, several attendees also noted the success of recent and ongoing programs. Senior IPR Attache has also recently noted what appear to be early signs of a thawing in the previously frozen bilateral relationship on IPR issues, at least on technical levels. In a string of meetings preceding the Roundtable, Senior IPR Attache attended programs and sat with the Vice President of China's Supreme People's Court, the deputy chair of the National People's Congress Standing Committee, a Vice Minister of the National Copyright Administration, a Vice Minister of the State Administration for Industry and Commerce, a Vice Comissioner of SIPO, and others. Also, a senior Ministry of Public Security official expressed his interest in deepening cooperation on domestic enforcement of IPR. Moreover, Supreme People's Court judges attended the Roundtable

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reception and, on the margins of the Roundtable, U/S Dudas from USPTO had successful meetings with SIPO Commisioner Tian, as well as SAIC Vice Minsiter Li Dongsheng. The situation continues to remain fluid. However, generally speaking, the more technical the discussion, the less it involves WTO issues, the less it involved MOFCOM, and the more it involves local governments away from Beijing or trade association sponsorship, the more likely it is to take place. End Comment.